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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,090	12/01/2003	Karl-Friedrich Laible	ZTP01P14018	1756

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/725,090	Applicant(s) LAIBLE, KARL-FRIEDRICH	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 9/10/2004.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 6/1/2001. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4-7, 11, and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,170,391 to Bottger.

Bottger discloses a housing for a refrigerator comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a body defining an interior and having at least one side part formed from a panel of flat material, such as shown in Figs 2 & 4, side walls, a front side with an opening open to the interior, vertical border strips, horizontal bars (16,28), said side part having a joining element, the end bar being introduced into the joining element and subjecting the border strip to a force having an effect of widening an angle at which the border strip is connected to the side wall, (i.e., col.3, lines 31-36, the inner leg 34 and the outer leg 32 of the U-shaped case portion are spaced from each other a distance slightly less than the distance

between the inner most portion of the detent tang 58 and the outer surface of the first end 44 of the cross piece support member 28), the end bar having at least two points of contact, such as shown in Fig 3. In regard to claim 11, Bottger meets the limitations recited therein since col.3, lines 31-36, the inner leg 34 and the outer leg 32 of the U-shaped case portion are spaced from each other a distance slightly less than the distance between the inner most portion of the detent tang 58 and the outer surface of the first end 44 of the cross piece support member 28. Thus, when the end bar is inserted into the joining element, it would deflect/rotate the joining element.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 3, 8-10, and 12-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bottger in view of USP 3,984,223 to Whistler, Jr..

Bottger discloses all the elements as discussed above except for the end bar having a joint-on buffer body forming at least one points of contact, the joining element is rigidly

connected to either the border strip or the side wall, the border strip being covered with a colored sheet material, and the side wall being free of a color coating at least in a rear region.

Whistler, Jr. teaches the idea of providing a joint-on buffer body 42 forming at a point of contact, such as shown in Fig 3, for the purpose of increase manufacturing tolerance of the dimensions of the elements. Therefore, it would have been obvious to modify the structure of Bottger by providing a joint-on buffer body forming at least one points of contact for the purpose of increase manufacturing tolerance of the dimensions of the elements, as taught by Whistler, Jr., since both teach alternate conventional refrigerator housing, used for the same intended purpose, thereby providing structure as claimed.

In regard to the joining element is rigidly connected to either the border strip or the side wall, it would have been obvious and well within the level of one skill in the art to rigidly connected the joining element to either the border strip or the side wall in order to increase the overall load support of the housing, if so is desired. In regard to the border strip being covered with a colored sheet material, and the sidewall being free of a color coating at least in a rear region, it would have been obvious and well within the level of one skill in the art to have the border strip being covered with a colored sheet material, and the sidewall being free of a color coating at least in a rear region in order to reduce the overall cost of the refrigerator.

Response to Arguments

8. Applicant's arguments filed 9/10/2004 have been fully considered but they are not persuasive. In response to applicant's argument on page 10 that because the outer leg 32 and the central portion 36 have a double material thickness, while the inner leg 34 has a single material thickness, so that, if in Bottger, a widening of the gap were to take place, it would occur

exclusively by a movement of the inner leg 34 and not a widening of the angle between the outer

leg 32 and the central panel 36, the examiner takes the position that Bottger reads on the claimed limitations for at least the following reasons (1) the inner leg 34 is pretty much hold in place by insulation 25, thus the end bar being introduced into the joining element and subjecting the border strip to a force having an effect of widening an angle at which the border strip is connected to the side wall, instead of the inner wall, and (2) applicant's disclosure clearly shows that the outer leg and the central portion also have a double material thickness, while the inner leg has only a single material thickness, just like Bottger, thus why applicant's members would act any differently from Bottger? Especially, since the claimed language fails to clearly provide adequate structural limitations in order to distinguish applicant's invention from Bottger.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3637

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*
November 28, 2004

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Lanna Mai